

Introduction

The phrase caveat emptor is not used by the judges very often nowadays. This doctrine is based on the principle that when a buyer is satisfied as to the product's suitability, then he is left with no subsequent right to reject such product. The caveat emptor rule originated many years ago in common law and over the times has undergone major changes. The exceptions of the doctrine started expanding with time as it was being given a concrete shape.

Doctrine of Caveat Emptor

The principle of Caveat emptor is explained in Section 16 of the Sale of Goods Act 1930 which states that there is no implied condition or warranty as to quality or fitness for any particular purpose of goods supplied."

The History of Caveat emptor

In the 19th century, the attitude of common law towards the buyer can be understood by the maxim Caveat emptor which means let the buyer beware. This maxim explains that a purchaser must carefully examine and judge what is best for him. The purchaser should not take the risk of the condition and quality of the object which he needs to buy, he must protect himself by a warranty. When the rule of caveat emptor originated, it was quite rigid and there was no scope for any subsequent change in the rule. In English Sale of Goods Act, 1893, it is highly noticeable and evident that the seller's duties as to requirements of disclosure when a product is sold was minimal. There was no duty upon the seller to provide information and proper examination of the goods by the buyer was considered over and above any other duty. The Concepts which could be used to shift the burden as to quality and fitness on the seller such as 'fitness of goods' and 'merchantability', were not encouraged.

Exceptions To The Rule Of Caveat emptor (Section 16 of The Sale of Goods Act, 1930)

1) Fitness for buyers purpose [Section 16(1)]

Section 16(1) of the said Act provides that in situations where the seller is aware either expressly or by necessary implication of the purpose for which a buyer needs to purchase a specific product, further, the goods are of such description which the seller supply in his ordinary course of business and by relying upon the judgment and skill of the seller, the buyer purchases that product, then the goods should be in accordance with the purpose. In other words, this section explains the circumstances where the seller has an obligation to supply the goods to the buyer as per the purpose for which he intends to buy the goods.

In Shital Kumar Saini v. Satvir Singh(2005) 1 CPR 401, a compressor was purchased by the petitioner with one year warranty. The defect in the product appeared within three months. The

petitioner sought a replacement. The seller replaced it but did not provide any further warranty. The State Commission stated that an implied warranty was guaranteed under section 16 of the Sale of Goods Act, 1930 and allowed it to be rejected.

2) Sale under Trade Name [Proviso to S. 16(1)]

In some cases, a buyer purchases goods not by relying on the skill and judgment of the seller but by relying on the product's trade name. In such cases, it would be unfair that the seller is burdened with the responsibility of quality. The proviso to Section 16 deals with such cases. It provides that:

“Provided that, there is no implied condition as to fitness for any particular purpose in the case of a contract for the sale of a specified product under its patent or other trade names.

3) Merchantable quality [Section 16(2)]

The second most important exception to the rule of Caveat emptor is incorporated by Section 16(2) of the Act. The Section imposes a duty upon the dealer to deliver the goods of merchantable quality.

- 4) Goods sold by description: If the goods sold did not match with the description, the doctrine of Caveat Emptor will not apply and the seller will be held responsible for such goods.

5) Conditions implied by trade usage [Sec. 16(3)]

Section 16(3) gives statutory force to the conditions implied by the usage of a particular trade. It states:

“An implied condition or warranty as to the quality or fitness for any particular purpose may be annexed by the usage of trade.”

In the case of **Peter Darlington Partners Ltd v Goshwami Co Ltd (1964)**, a contract for the sale of canary seeds was subjected to the custom of trade and held that if there exist any impurities in the seeds the buyer will get a rebate on the price but he would not reject the goods. However, a custom which is unreasonable will not affect the parties' contract.

- 6) When the goods have been sold by making some fraud or misrepresentation.

Conclusion

Thus, it can be concluded from the aforementioned analysis that the rule of Caveat emptor is being taken over by the rule of Caveat venditor and is dying a slow death. The change is taking place in order to create a more consumer-oriented market wherein transactions of commercial nature will

be encouraged. Such change will help to create a more consumer-friendly market and an appropriate balance can be maintained between the rights and obligations of the buyer and the seller.